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1st Session }

SENATE

{ EXECUTIVE
B }

*Protocol to Agreement re
Status of Armed Forces*

STATUS OF INTERNATIONAL MILITARY HEADQUARTERS
SET UP PURSUANT TO THE NORTH ATLANTIC TREATY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A PROTOCOL ON THE STATUS OF INTERNATIONAL MILITARY HEADQUARTERS SET UP PURSUANT TO THE NORTH ATLANTIC TREATY, SIGNED AT PARIS, ON AUGUST 28, 1952

FEBRUARY 27, 1953.—The protocol was read the first time and the injunction of secrecy was removed therefrom, and together with all accompanying papers was referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

THE WHITE HOUSE, February 27, 1953.

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a certified copy of a protocol on the status of International Military Headquarters set up pursuant to the North Atlantic Treaty, signed at Paris on August 28, 1952. This document is a protocol to the agreement regarding status of forces of parties of the North Atlantic Treaty, and is related to the agreement on the status of the North Atlantic Treaty Organization, both previously transmitted to the Senate in the second session of the 82d Congress.

The Status of Forces Agreement of 1951 and the present protocol, as well as the companion agreement relating to the status of the North Atlantic Treaty Organization itself, are necessary parts of the new machinery we need to carry forward the vital program for the integrated defense forces of the North Atlantic Treaty Organization. These are multilateral agreements and thus provide that basis of

uniformity in these fields which is essential for NATO and its integrated operations. While these agreements do not in every respect reflect the maximum desires of each country, and to that extent represent certain compromises on the part of all, it is my considered belief that they provide a workable, equitable, and desirable framework for NATO activities and peacetime NATO military operations. The early acceptance of these agreements by the NATO nations is very important to the furtherance of the NATO collective defense effort.

I also transmit, for the information of the Senate, the report made to me by the Secretary of State regarding this protocol.

DWIGHT D. EISENHOWER.

(Enclosures: (1) Report by the Secretary of State; (2) certified copy of protocol on the status of International Military Headquarters set up pursuant to the North Atlantic Treaty.)

DEPARTMENT OF STATE,
Washington, February 25, 1953.

The PRESIDENT,
The White House.

I have the honor to submit to you a certified copy of a protocol on the status of International Military Headquarters set up pursuant to the North Atlantic Treaty, signed at Paris on August 28, 1952, with the recommendation that it be transmitted to the Senate for its advice and consent to ratification.

The protocol has as its purpose the definition of the status of any Supreme Headquarters or Allied Headquarters, and members of their staffs, which may be established in the territory of any of the parties to the North Atlantic Treaty. Supreme Headquarters is defined in the protocol to mean Supreme Headquarters Allied Powers in Europe, Headquarters of the Supreme Allied Commander Atlantic, and any equivalent international military headquarters set up pursuant to the North Atlantic Treaty. Allied Headquarters is defined to mean any Supreme Headquarters and any international military headquarters which is immediately subordinate to a Supreme Headquarters.

The status of an Allied Headquarters and its personnel is determined primarily by setting forth in the protocol the principles which shall govern the application thereto of the agreement between the parties to the North Atlantic Treaty regarding the status of their forces, signed at London June 19, 1951 (S. Ex. T, 82d Cong., 2d sess.). Subject to the provisions of the protocol, the agreement is to apply to Allied Headquarters in the territory of a party to the protocol in the North Atlantic Treaty area, and to the military and civilian personnel of such Headquarters and their dependents. The basic points covered with respect to applying the status of forces agreement of 1951 may be summarized as follows:

1. The rights and obligations which the agreement gives to or imposes upon the sending state or its authorities in respect of its forces or their civilian components shall, in respect of an Allied Headquarters and its personnel, be vested in or attached to the appropriate Supreme Headquarters and the authorities responsible under it, subject to certain exceptions enumerated in article 4 of the protocol.

2. The obligations to waive claims imposed on the contracting parties by article VIII of the agreement shall be attached both to Allied Headquarters and to any party to the protocol concerned. The claims to which paragraph 5 of article VIII of the agreement applies shall include claims arising out of acts or omissions of any of the employees of an Allied Headquarters, or out of any other act, omission, or occurrence for which an Allied Headquarters is legally responsible, and causing damage in the territory of a receiving state to third parties other than to any of the parties to the protocol.

3. The exemption from taxation accorded under article X of the agreement to members of a force or civilian component in respect of their salaries and emoluments shall apply, as regards personnel of an Allied Headquarters, to salaries and emoluments paid to them as such personnel by the armed service to which they belong or by which they are employed, except that they shall not be exempt from taxation imposed by a state of which they are a national.

4. An Allied Headquarters shall have, subject to the same conditions, the rights granted to a force under article XI of the agreement with respect to customs laws and regulations of a receiving state.

In addition to prescribing how the status of forces agreement of 1951 shall apply, the protocol accords to an Allied Headquarters special privileges and benefits. These include:

1. For the purpose of facilitating the establishment, construction, maintenance, and operation of Allied Headquarters, such Headquarters are to be relieved so far as practicable from duties and taxes affecting expenditures by them in the interest of common defense and for their official and exclusive benefit, and each party to the protocol is to enter into negotiations with any Allied Headquarters operating in its territory for the purpose of concluding an agreement to give effect to this provision.

2. No measure of execution or measure directed to the seizure or attachment of its property or funds shall be taken against any Allied Headquarters, except for the purpose of paragraph 6 (a) of article VII and article XIII of the agreement.

3. To enable it to operate its international budget, an Allied Headquarters may hold currency of any kind and operate accounts in any currency.

4. The archives and official documents of an Allied Headquarters kept in premises used by those Headquarters or in the possession of any properly authorized member of the Headquarters shall be inviolable, unless the Headquarters has waived this immunity. Allied Headquarters shall, however, at the request of the receiving state and in the presence of a representative of that state, verify the nature of any of such documents to confirm they are entitled to such immunity.

The protocol further provides that each Supreme Headquarters shall possess juridical personality and recognizes the capability of a Supreme Headquarters, under certain conditions, to conclude contracts and to acquire or dispose of property. A Supreme Headquarters may also, subject to the provisions of article VIII of the agreement, engage in legal proceedings as claimant or defendant.

Under the protocol, any assets acquired from the international funds of an Allied Headquarters under its capital budget and no longer required by the Headquarters are to be disposed of under arrangements approved by the North Atlantic Council and the

proceeds distributed among or credited to the parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters. Any land, buildings, or fixed installations provided for the use of an Allied Headquarters by the receiving state without charge to the Headquarters are to be handed back when no longer needed to the receiving state, and any increase or loss in the value of such property resulting from its use by the Headquarters shall be determined by the North Atlantic Council and distributed among or credited or debited to the parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters.

With respect to taxation of employees of an Allied Headquarters of categories agreed by the North Atlantic Council, a formula has been provided in the protocol that is similar to the one evolved in the agreement on the status of the North Atlantic Treaty Organization, signed at Ottawa on September 20, 1951 (S. Ex. U, 82d Cong., 2d sess.), concerning taxation on the salaries and emoluments paid by the Organization to its officials. This formula provides exemption for employees who are paid directly by Allied Headquarters, but enables those states which desire to conclude an arrangement with Allied Headquarters to employ and assign all of its nationals who are to serve on the staff of Allied Headquarters, to pay the salaries and emoluments of such persons from its own funds at a scale fixed by it, and to charge income tax on the salaries and emoluments so paid. In accordance with this provision, the United States is about to sign an agreement with the North Atlantic Council, acting on behalf of International Military Headquarters, whereby this Government will employ and assign to such Headquarters all United States nationals who are to serve on the staff thereof and pay the salaries and emoluments of such persons from its own funds at a scale fixed by it. This arrangement will be similar to the one transmitted to the Senate for its information in connection with the agreement on the status of the North Atlantic Treaty Organization and printed in Senate Executive U, 82d Congress, 2d session.

This protocol is related to the agreement regarding the status of forces of parties to the North Atlantic Treaty, and the agreement relating to the status of the North Atlantic Treaty Organization, transmitted to the Senate in the second session of the 82d Congress. The former agreement also relates to the administrative agreement with Japan, insofar as that agreement provides that upon the coming into force with respect to the United States of the "Agreement between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces," signed at London June 19, 1951, the United States will immediately conclude with Japan, at the option of Japan, an agreement on criminal jurisdiction similar to the corresponding provisions of that agreement.

These agreements provide for the basic uniformity in these fields which is required in the interest of integrated operations. They represent a successful reconciliation of the views of the various countries concerned and establish basic rights and responsibilities which, though not fully satisfying the views of all countries in every respect, nevertheless represent a reasonable, practical, and realistic formula for these areas from the point of view of the United States, both as a nation sending troops abroad under these agreements and as a nation which may be receiving foreign troops here under their terms.

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It is considered important, from the point of view of furthering the NATO collective defense effort, that these agreements be accepted by the NATO nations at the earliest possible date.

It is hoped that the Senate will give favorable consideration to the protocol at the same time that it considers the agreement on the status of forces of 1951.

I am authorized to state that the Secretary of Defense concurs in the necessity for the early ratification of these agreements.

Respectfully submitted.

JOHN FOSTER DULLES.

(Enclosure: Certified copy of protocol on the status of International Military Headquarters set up pursuant to the North Atlantic Treaty.)

PROTOCOL ON THE STATUS OF INTERNATIONAL MILITARY HEADQUARTERS SET UP PURSUANT TO THE NORTH ATLANTIC TREATY

The Parties to the North Atlantic Treaty signed in Washington on 4th April, 1949,

Considering that international military Headquarters may be established in their territories, by separate arrangement, under the North Atlantic Treaty, and

Desiring to define the status of such Headquarters and of the personnel thereof within the North Atlantic Treaty area,

Have agreed to the present Protocol to the Agreement signed in London on 19th June, 1951, regarding the Status of their Forces:

ARTICLE 1

In the present Protocol the expression

(a) "the Agreement" means the Agreement signed in London on 19th June, 1951, by the Parties to the North Atlantic Treaty regarding the Status of their Forces;

(b) "Supreme Headquarters" means Supreme Headquarters Allied Powers in Europe, Headquarters of the Supreme Allied Commander Atlantic and any equivalent international military Headquarters set up pursuant to the North Atlantic Treaty;

(c) "Allied Headquarters" means any Supreme Headquarters and any international military Headquarters set up pursuant to the North Atlantic Treaty which is immediately subordinate to a Supreme Headquarters;

(d) "North Atlantic Council" means the Council established by Article 9 of the North Atlantic Treaty or any of its subsidiary bodies authorised to act on its behalf.

ARTICLE 2

Subject to the following provisions of this Protocol, the Agreement shall apply to Allied Headquarters in the territory of a Party to the present Protocol in the North Atlantic Treaty area, and to the military and civilian personnel of such Headquarters and their dependents included in the definitions in sub-paragraphs (a), (b) and

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(c) of paragraph 1 of Article 3 of this Protocol, when such personnel are present in any such territory in connection with their official duties or, in the case of dependents, the official duties of their spouse or parent.

ARTICLE 3

1. For the purpose of applying the Agreement to an Allied Headquarters the expressions "force", "civilian component" and "dependent", wherever they occur in the Agreement, shall have the meanings set out below:

(a) "force" means the personnel attached to the Allied Headquarters who belong to the land, sea or air armed services of any Party to the North Atlantic Treaty;

(b) "civilian component" means civilian personnel who are not stateless persons, nor nationals of any State which is not a Party to the Treaty, nor nationals of, nor ordinarily resident in the receiving State, and who are (i) attached to the Allied Headquarters and in the employ of an armed service of a Party to the North Atlantic Treaty or (ii) in such categories of civilian personnel in the employ of the Allied Headquarters as the North Atlantic Council shall decide;

(c) "dependent" means the spouse of a member of a force or civilian component, as defined in sub-paragraphs (a) and (b) of this paragraph, or a child of such member depending on him or her for support.

2. An Allied Headquarters shall be considered to be a force for the purposes of Article II, paragraph 2 of Article V, paragraph 10 of Article VII, paragraphs 2, 3, 4, 7 and 8 of Article IX, and Article XIII, of the Agreement.

ARTICLE 4

The rights and obligations which the Agreement gives to or imposes upon the sending State or its authorities in respect of its forces or their civilian components or dependents shall, in respect of an Allied Headquarters and its personnel and their dependents to whom the Agreement applies in accordance with Article 2 of the present Protocol, be vested in or attach to the appropriate Supreme Headquarters and the authorities responsible under it, except that

(a) the right which is given by Article VII of the Agreement to the military authorities of the sending State to exercise criminal and disciplinary jurisdiction shall be vested in the military authorities of the State, if any, to whose military law the person concerned is subject;

(b) the obligations imposed upon the sending State or its authorities by Article II, paragraph 4 of Article III, paragraphs 5 (a) and 6 (a) of Article VII, paragraphs 9 and 10 of Article VIII, and Article XIII, of the Agreement, shall attach both to the Allied Headquarters and to any State whose armed service, or any member or employee of whose armed service, or the dependent of such member or employee, is concerned;

(c) for the purposes of paragraphs 2 (a) and 5 of Article III, and Article XIV, of the Agreement, the sending State shall be, in the case of members of a force and their dependents, the State to whose armed service the member belongs, or, in the case of members of a civilian component and their dependents, the State, if any, by whose armed service the member is employed;

(d) the obligations imposed on the sending State by virtue of paragraphs 6 and 7 of Article VIII of the Agreement shall attach to the State to whose armed service the person belongs whose act or omission has given rise to the claim or, in the case of a member of a civilian component, to the State by whose armed service he is employed or, if there is no such State, to the Allied Headquarters of which the person concerned is a member.

Both the State, if any, to which obligations attach under this paragraph and the Allied Headquarters concerned shall have the rights of the sending State in connection with the appointment of an arbitrator under paragraph 8 of Article VIII.

ARTICLE 5

Every member of an Allied Headquarters shall have a personal identity card issued by the Headquarters showing names, date and place of birth, nationality, rank or grade, number (if any), photograph and period of validity. This card must be presented on demand.

ARTICLE 6

1. The obligations to waive claims imposed on the Contracting Parties by Article VIII of the Agreement shall attach both to the Allied Headquarters and to any Party to this Protocol concerned.

2. For the purposes of paragraphs 1 and 2 of Article VIII of the Agreement,

(a) property owned by an Allied Headquarters or by a Party to this Protocol and used by an Allied Headquarters shall be deemed to be property owned by a Contracting Party and used by its armed services;

(b) damage caused by a member of a force or civilian component as defined in paragraph 1 of Article 3 of this Protocol or by any other employee of an Allied Headquarters shall be deemed to be damage caused by a member or employee of the armed services of a Contracting Party;

(c) the definition of the expression "owned by a Contracting Party" in paragraph 3 of Article VIII shall apply in respect of an Allied Headquarters.

3. The claims to which paragraph 5 of Article VIII of the Agreement applies shall include claims (other than contractual claims and claims to which paragraphs 6 or 7 of that Article apply) arising out of acts or omissions of any employees of an Allied Headquarters, or out of any other act, omission or occurrence for which an Allied Headquarters is legally responsible, and causing damage in the territory of a receiving State to third parties, other than any of the Parties to this Protocol.

ARTICLE 7

1. The exemption from taxation accorded under Article X of the Agreement to members of a force or civilian component in respect of their salaries and emoluments shall apply, as regards personnel of an Allied Headquarters within the definitions in paragraph 1 (a) and (b) (i) of Article 3 of this Protocol, to salaries and emoluments paid to them as such personnel by the armed service to which they belong or by which they are employed, except that this paragraph shall not exempt any such member or employee from taxation imposed by a State of which he is a national.

2. Employees of an Allied Headquarters of categories agreed by the North Atlantic Council, shall be exempted from taxation on the salaries and emoluments paid to them by the Allied Headquarters in their capacity as such employees. Any Party to the present Protocol may, however, conclude an arrangement with the Allied Headquarters whereby such Party will employ and assign to the Allied Headquarters all of its nationals (except, if such Party so desires, any not ordinarily resident within its territory) who are to serve on the staff of the Allied Headquarters and pay the salaries and emoluments of such persons from its own funds, at a scale fixed by it. The salaries and emoluments so paid may be taxed by the Party concerned but shall be exempted from taxation by any other Party. If such an arrangement is entered into by any Party to the present Protocol and is subsequently modified or terminated, Parties to the present Protocol shall no longer be bound under the first sentence of this paragraph to exempt from taxation the salaries and emoluments paid to their nationals.

ARTICLE 8

1. For the purpose of facilitating the establishment, construction, maintenance and operation of Allied Headquarters, these Headquarters shall be relieved, so far as practicable, from duties and taxes, affecting expenditures by them in the interest of common defense and for their official and exclusive benefit, and each Party to the present Protocol shall enter into negotiations with any Allied Headquarters operating in its territory for the purpose of concluding an agreement to give effect to this provision.

2. An Allied Headquarters shall have the rights granted to a force under Article XI of the Agreement subject to the same conditions.

3. The provisions in paragraphs 5 and 6 of Article XI of the Agreement shall not apply to nationals of the receiving States, unless such nationals belong to the armed services of a Party to this Protocol other than the receiving State.

4. The expression "duties and taxes" in this Article does not include charges for services rendered.

ARTICLE 9

Except in so far as the North Atlantic Council may decide otherwise,

(a) any assets acquired from the international funds of an Allied Headquarters under its capital budget and no longer required by the Headquarters shall be disposed of under arrangements approved by the North Atlantic Council and the proceeds shall be distributed among or credited to the Parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters. The receiving State shall have the prior right to acquire any immovable property so disposed of in its territory, provided that it offers terms no less favourable than those offered by any third party;

(b) any land, buildings or fixed installations provided for the use of an Allied Headquarters by the receiving State without charge to the Headquarters (other than a nominal charge) and no longer required by the Headquarters shall be handed back to the receiving State, and any increase or loss in the value of the property provided by the receiving State resulting from its use by the Headquarters shall be determined by the North Atlantic Council (taking into consideration any applicable law of the receiving State) and distributed among or credited or debited to the Parties to the North Atlantic Treaty in the proportions in which they have contributed to the capital costs of the Headquarters.

ARTICLE 10

Each Supreme Headquarters shall possess juridical personality; it shall have the capacity to conclude contracts and to acquire and dispose of property. The receiving State may, however, make the exercise of such capacity subject to special arrangements between it and the Supreme Headquarters or any subordinate Allied Headquarters acting on behalf of the Supreme Headquarters.

ARTICLE 11

1. Subject to the provisions of Article VIII of the Agreement, a Supreme Headquarters may engage in legal proceedings as claimant or defendant. However, the receiving State and the Supreme Headquarters or any subordinate Allied Headquarters authorised by it may agree that the receiving State shall act on behalf of the Supreme Headquarters in any legal proceedings to which that Headquarters is a party before the courts of the receiving State.

2. No measure of execution or measure directed to the seizure or attachment of its property or funds shall be taken against any Allied Headquarters, except for the purposes of paragraph 6 (a) of Article VII and Article XIII of the Agreement.

ARTICLE 12

1. To enable it to operate its international budget, an Allied Headquarters may hold currency of any kind and operate accounts in any currency.

2. The Parties to the present Protocol shall, at the request of an Allied Headquarters, facilitate transfers of the funds of such Headquarters from one country to another and the conversion of any currency held by an Allied Headquarters into any other currency, when necessary to meet the requirements of any Allied Headquarters.

ARTICLE 13

The archives and other official documents of an Allied Headquarters kept in premises used by those Headquarters or in the possession of any properly authorised member of the Headquarters shall be inviolable, unless the Headquarters has waived this immunity. The Headquarters shall, at the request of the receiving State and in the presence of a representative of that State, verify the nature of any documents to confirm that they are entitled to immunity under this Article.

ARTICLE 14

1. The whole or any part of the present Protocol or of the Agreement may be applied, by decision of the North Atlantic Council, to any international military Headquarters or organisation (not included in the definitions in paragraphs (b) and (c) of Article 1 of this Protocol) which is established pursuant to the North Atlantic Treaty.

2. When the European Defence Community comes into being, the present Protocol may be applied to the personnel of the European Defence Forces attached to an Allied Headquarters and their dependents at such time and in such manner as may be determined by the North Atlantic Council.

ARTICLE 15

All differences between the Parties to the present Protocol or between any such Parties and any Allied Headquarters relating to the interpretation or application of the Protocol shall be settled by negotiation between the parties in dispute without recourse to any outside jurisdiction. Except where express provision is made to the contrary in the present Protocol or in the Agreement, differences which cannot be settled by direct negotiation shall be referred to the North Atlantic Council.

ARTICLE 16

1. Articles XV and XVII to XX of the Agreement shall apply as regards the present Protocol as if they were an integral part thereof, but so that the Protocol may be reviewed, suspended, ratified, acceded to, denounced or extended in accordance with those provisions independently from the Agreement.

2. The present Protocol may be supplemented by bilateral agreement between the receiving State and a Supreme Headquarters, and the authorities of a receiving State and a Supreme Headquarters may agree to give effect, by administrative means in advance of ratification, to any provisions of this Protocol or of the Agreement as applied by it.

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IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed the present Protocol.

Done in Paris this 28th day of August 1952, in the English and French languages, both texts being equally authoritative, in a single original which shall be deposited in the archives of the Government of the United States of America. The Government of the United States of America shall transmit certified copies thereof to all the signatory and acceding States.

For the Kingdom of Belgium:

ANDRÉ DE STAERCKE.

For Canada:

A. D. P. HEENEY.

For the Kingdom of Denmark:

SANDAGER JEPPESEN.

For the United States of America:

WILLIAM H. DRAPER, Jr.

For France:

HERVÉ ALPHAND.

For the Kingdom of Greece:

PAN. PIPINELIS.

For Iceland:

GUNNLAUGUR PÉTURSSON.

For Italy:

A. ROSSI-LONGHI.

For the Grand Duchy of Luxembourg:

G. HEISBOURG.

For the Kingdom of Norway:

S. CHR. SOMMERFELT.

For the Kingdom of the Netherlands:

A W L TJARDA VAN STARKENBORGH S.

For Portugal:

H. CALDEIRA QUEIROZ.

For the United Kingdom of Great Britain and Northern Ireland:

F. R. HOYER MILLAR.

For Turkey:

TAHA CARIN.

I CERTIFY THAT the foregoing is a true copy of the Protocol on the Status of International Military Headquarters set up Pursuant to the North Atlantic Treaty signed at Paris on August 28, 1952, in the English and French languages, the signed original of which is deposited in the archives of the Government of the United States of America.

IN TESTIMONY WHEREOF, I, DAVID BRUCE, Acting Secretary of State of the United States of America, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer of the said Department, at the city of Washington, in the District of Columbia, this seventeenth day of November, 1952.

DAVID BRUCE,

Acting Secretary of State.

By BARBARA HARTMAN,

Authentication Officer, Department of State.

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